

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

July 22, 1999

DIVISION TWO

Court convened at 9:00 A.M.

Present: Boren, P.J., Nott, J., Zebrowski, J., Mallano, J. (Assigned), and G. Villanueva, Deputy Clerk.

B127539 People v. David V.

Argument waived, cause submitted.

B126553 People
 v.
 Honore

Merits:

Argued by Richard Fitzer for appellant and by Martin Pitha, deputy attorney general, for respondent. Cause submitted.

B125980 Ferlauto
 v.
 Hamsher

Merits:

Argued by Thomas Ferlauto for appellant and by Bradley Ellis for respondent. Cause submitted.

DIVISION TWO (Continued)

B114290 People
 v.
 Ochoa

Merits:

Argued by Christine Vento for appellant and by Erika Jackson, deputy attorney general, for respondent. Cause submitted.

B114366 Keech
 v.
 Keech

Merits:

Argued by Ira Friedman for appellant and by Bruce Abel for respondent. Cause submitted.

B125003 Bell
 v.
 Chambler

Merits:

Argued by Ronald Fitzgerald for appellant and by Jonathan Cristall for respondent. Cause submitted.

B122939 Holloway
 v.
 A & B Plumbing

Merits:

Argued by Thomas Holloway appellant in propria persona and by Edwin Carney for respondent. Cause submitted.

Court recessed.

DIVISION TWO (Continued)

The Court reconvened at 1:00 PM.

Present: Boren, P.J., Nott, J., Zebrowski, J., Mallano, J. (Assigned), and G. Villanueva, Deputy Clerk.

B121641 People
 v.
 Smith

Merits:

Argued by Natasha Cooper, deputy district attorney, for appellant and no appearance having been made for respondent. Cause submitted.

B117029 Carter
 v.
 Griffin

Merits:

Argued by Rodney Wickers for appellant and by Catherine Adams for respondent. Cause submitted.

B125427 Trilling
 v.
 Hertz

Merits:

Argued by Mary Dant for appellant and by Joseph Zamora for respondent. Cause submitted.

B120457 Shen
 v.
 Ming Yuan

Merits:

Argued by Y.C. Shen appellant in propria persona and by Louis Cheng for respondent. Cause submitted.

DIVISION TWO (Continued)

B123365 Dixon
v.
Bauer St. Mary's Med. Center

Merits:
Argued by Thomas McIntosh for appellant and by Mark Connelly for respondent. Cause submitted.

Nott, J. leaves the bench.

B122895 Ory
v.
Ipanema Music corp.

Merits:
Argued by Neville Johnson for appellant and by Davidson Pattiz for respondent. Cause submitted.

Court adjourned.

B121068 People (Certified for Publication)
v.
Mazurette

The appeal is dismissed.

Mallano, J. (Assigned)

We concur: Boren, P.J.
 Nott, J.

DIVISION TWO (Continued)

B128205 Los Angeles County, D.C.F.S. (Not for Publication)
 v.
 Yvette R.

The judgment is affirmed.

Mallano, J. (Assigned)

We concur: Boren, P.J.
 Zebrowski, J.

B121768 Yovev (Not for Publication)
 v.
 California Fair Plan Association

The summary judgment is reversed, with directions to enter an order summarily adjudication plaintiff's earthquake claim and his second cause of action but otherwise denying defendant's motion for summary judgment or in the alternative for summary adjudication. Plaintiff shall recover his costs.

Mallano, J. (Assigned)

We concur: Nott, Acting P.J.
 Zebrowski, J.

B126642 Nielsen
 v.
 Wolf

Filed order modifying opinion. (No change in the judgment)

DIVISION FOUR

B128208 Los Angeles County, D.C.F.S. (Not for Publication)
 v.
 Johnny V.

The order is affirmed.

Epstein, Acting P.J.

We concur: Hastings, J.
 Kuhl, J. (Assigned)

B126988 People (Not for Publication)
 v.
 Carrington

The judgment is affirmed.

Hastings, J.

We concur: Vogel (C.S.), P.J.
 Epstein, J.

B125222 Eskenazi (Not for Publication)
 v.
 Arkas Properties

The judgment is reversed as to Mr. George Arkas as an individual. In all other respects, the judgment is affirmed. Each side is to bear its own costs on appeal.

Epstein, J.

We concur: Vogel (C.S.), P.J.
 Hastings, J.

DIVISION FOUR (Continued)

B125510 Rachal (Not for Publication)
v.
Workers Compensation Appeals Board

The Board's order denying reconsideration to Rachal is annulled and the matter is remanded with directions to grant Rachal's motion for reconsideration.

Hastings, J.

We concur: Vogel (C.S.), P.J.
Epstein, J.

DIVISION FIVE

B126418 Rachel Marke (Not for Publication)
v.
Robinsons-May Inc.

The judgment is reversed. The trial court is directed to vacate its order granting the motion for nonsuit and enter a new and different order granting the motion for nonsuit on Markel's negligence cause of action only. The matter is remanded for further proceedings on the strict liability cause of action. The parties are to bear their own costs on appeal.

Grignon, J.

We concur: Turner, P.J.
Godoy Perez, J.

B117897 Thomas J. Barnes (Not for Publication)
v.
Brymarc Property Management Co.,

The judgment is affirmed. Respondent to recover its costs on appeal.

Godoy Perez, J.

We concur: Grignon, Acting P.J.
Armstrong, J.

DIVISION FIVE (Continued)

B124964 People (Not for Publication)
B128730 v.
Matthew Toledo

The clerk of the Superior Court is directed to amend the abstract of judgment to reflect a \$10,000 parole revocation fine under Penal Code section 1202.45, to be suspended unless defendant has his parole revoked. In all other respects, the judgment is affirmed. Petition for writ of habeas corpus is denied.

Weisman, J. (Assigned)

We concur: Turner, P.J.
 Grignon, J.

B124468 People (Not for Publication)
v.
Frank Rocha

The judgment is modified to reflect the imposition of the Penal Code section 1202.45 restitution fine discussed in the body of this opinion. The judgment is affirmed in all other respects.

Turner, P.J.

We concur: Armstrong, J.
 Godoy Perez, J.

DIVISION SIX

B126402 Santa Barbara C.P.S (Certified for Publication)
v.
David W.

The judgment (order terminating parental rights) is affirmed.

Yegan, J.

We concur: Gilbert, Acting P.J.
 Coffee, J.

DIVISION SIX (Continued)

[illegible]

The trial court is directed to impose a \$100 lab analysis fee (Health & Saf. Code, § 11372.5), a \$100 state penalty assessment (Pen. Code § 1464), and a \$70 penalty assessment payable to the county (Gov. Code, § 76000). The trial court is further directed to issue an amended abstract of judgment reflecting the lab fee and penalty assessments. As modified, the judgment is affirmed.

Yegan, J.

We concur: Gilbert, Acting P.J.
 Coffee, J.

B128676 David W. (Certified for Publication)
v.
Santa Barbara C.P.S.

The order to show cause is discharged and the petition for writ of error coram vobis is denied.

Yegan, J.

We concur: Gilbert, Acting P.J.
Coffee, J.

B124759 Rose (Not for Publication)
v.
Regents of the University of California

The judgment is affirmed. Costs to respondent.

Yegan, J.

We concur: Gilbert, Acting P.J.
 Coffee, J.

DIVISION SIX (Continued)

[illegible]

The judgment is reversed. The matter is remanded to the trial court with directions to reinstate the allegation of the 1989 prior serious felony conviction, and to allow Scott the opportunity to withdraw his guilty plea and admissions. If, on remand, Scott chooses not to withdraw his plea with admissions, the trial court may reconsider whether to strike the prior conviction allegation. Any exercise of discretion by the trial court regarding the prior convictions must adhere to the letter and spirit of this opinion.

Coffee, J.

We concur: Gilbert, Acting P.J.
 Yegan, J.

DIVISION SEVEN

B127231 Bordwell (Not for Publication)
v.
AppleOne Employment Services

The order of the trial court denying AppleOne's motion to compel arbitration is affirmed. Respondent to recover costs on appeal.

Neal, J.

We concur: Lillie, P.J.
Johnson, J.

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DIVISION SEVEN (Continued)

B124597 Rose (Not for Publication)
v.
Diana Lee Rose Townsend

The judgment is affirmed. Each side shall bear its own costs on appeal.

Neal, J.

We concur: Lillie, P.J.
Woods, J.

B124052 Green (Not for Publication)
v.
Gossenberger

The order denying the motion to vacate is reversed, and the trial court is directed to make a new order setting aside the default judgments. Appellant shall recover his costs on appeal.

Neal, J.

We concur: Lillie, P.J.
Johnson, J.